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Joint Legislative Audit and Review Committee (JLARC)

INTERIM LEGISLATIVE AUDITOR

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SENATORS

Brad Benson
Darlene Fairley
Jeanne Kohl-Welles
Bob Oke
Linda Evans Parlette, *Secretary*
Debbie Regala, *Chair*
Pat Thibodeau
Joseph Zarelli

REPRESENTATIVES

Gary Alexander, *Vice Chair*
Glenn Anderson
Kathy Haigh
Janéa Holmquist
Ross Hunter, *Asst. Secretary*
Fred Jarrett
Kelli Linville
Deb Wallace

May 18, 2005

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REGULAR COMMITTEE MEETING MINUTES

COMMITTEE BUSINESS

- Representative Gary Alexander, JLARC Vice Chair, called the meeting to order at 10:05 a.m. in Senate Hearing Room 1 of the John A. Cherberg Building in Olympia, Washington.
- Representative Alexander introduced Ann Daley, JLARC's new Interim Legislative Auditor. Ms. Daley replaced Cindi Yates who was appointed Director of the Department of Revenue.
- Senator Linda Evans Parlette moved to approve the minutes from the February 8, 2005, JLARC meeting. Motion was seconded and carried unanimously.
- Representative Alexander introduced and welcomed two new staff members who will be joining JLARC in June: Valerie Whitener and Cynthia Forland.
- Representative Alexander announced that we are beginning the recruitment process for the Legislative Auditor position, and that we have retained the services of Dennis Karras, a former Director of the Department of Personnel, to lead this effort. Representative Alexander noted that Mr. Karras was involved in two other Legislative Auditor recruitments for JLARC. Representative Alexander informed Committee members that we plan to have the position filled by our September meeting, if not before. This will be a national search.
- Representative Alexander informed members that the JLARC meeting planned for August 10, 2005, has been cancelled due to too many things going on, one of which is a conflict with the National Conference of State Legislators (NCSL) annual meeting in August. Representative Alexander noted that Washington State is hosting this year's meeting. He explained that our next JLARC meeting will be in June, followed by a September meeting.
- Representative Alexander informed members that at the June meeting, the Committee will be electing new officers for the 2005-07 Biennium. Staff will also be presenting JLARC's 2005-07 Work Plan to members for their vote and acceptance. The draft Work Plan was then distributed to Committee members. Representative Alexander encouraged members to review the draft Work Plan and to bring their ideas and comments to the June meeting. Representative Hunter reminded the Committee that this year's budget granted JLARC the flexibility of changing the dates for completion of various JLARC reports in order to balance the work plan. Representative Hunter commented that the draft Work Plan feels a bit tight, so if there are places members think there is some flexibility, it might be worth taking a look at that for the next meeting. That way we can be prepared to address cases where we are concerned about our ability to deliver.
- Ann Daley informed members that JLARC staff are involved in a staff section of NCSL known as the National Legislative Evaluation Program Society (or NLPES) and, as part of that work, staff is facilitating a panel during the NCSL meeting that will be looking at performance measurement systems—what's reasonable and what's not. Ms. Daley explained that we are looking for any members of our Committee who might be interested in participating, and asked those members to please let her know.
- Before moving on to the main agenda items, Committee members introduced themselves and the districts they represent.

REPORTS, PRESENTATIONS, DISCUSSIONS

DNR FIRE SUPPRESSION POLICY STUDY – PRELIMINARY REPORT

John Woolley and Lisa Jeremiah of the JLARC staff presented this preliminary report. The report explains how the Department of Natural Resources (DNR) operates its fire-suppression program, offers explanations for spending increases, and suggests changes that could enhance policymakers' understanding of how DNR fights fires. Most of the fires DNR has fought over the past ten years have been on private land and the state's general fund pays most of the costs. There is no single factor causing spending increases, but we found that when conditions are ripe for wildfires and they do burn more acres, policymakers can expect expenditures to go up: there is a close connection between total expenditures and the number of acres burned. DNR complies with statutory direction to fight wildfires aggressively and does not fight house fires, but when DNR shifts its focus to protecting homes and structures from burning, this may conflict with statute's direction to make trees a higher priority than structures. DNR's financial and data systems do a poor job of helping decision makers understand costs, and the budgeting process for fire suppression needs to be changed to increase budget accuracy.

Representative Hunter asked about the percentage of growth of the number of fires and the number of acres burned on DNR-protected land. Staff responded that they would get back to Representative Hunter with this information.

Representative Wallace noted that in comparing spending with the number of acres burned, it appeared that in 1998 spending was down, but the number of acres burned was up. She wondered if there was a correlation between underfunding the program and more acres burning. Staff responded that there is some lag in the data, because the dollars are presented in fiscal, not calendar, years. Staff also noted that while it is possible to determine the amount of expenditures, it is not possible to determine the benefits of those expenditures. This is a shortcoming of the data and is not unique to Washington, but also experienced by other states and the U.S. Forest Service.

Representative Anderson noted that following the fires at Yellowstone National Park, several studies showed the economic and environmental benefits of wildfire. Staff responded that they had looked at the benefits of wildfire, but DNR's statute does not currently allow DNR to let fires burn. DNR must aggressively fight fires.

Representative Hunter noted that he agreed with Recommendation 4, and asked whether staff looked at DNR's budget requests, and how those compared to the amount the Legislature appropriated—was the Legislature choosing to pay for suppression costs through a supplemental budget? Staff responded that in the current process, DNR takes the ten-year average for suppression costs, and removes the two high and two low years, and recognizes that the amount requested is subject to change. Distinguishing between large and small fires might be more accurate, as the smaller fires follow a more consistent pattern. This is perhaps a process that everyone, including the Legislature and DNR, can do better.

Senator Parlette asked whether the landowners who are taxed both DNR's Forest Fire Protection Assessment and their local fire district's levy could be reimbursed for this double taxation. Staff replied that there is not such a process in place.

Representative Linville asked whether fire districts are capped on the amount they can assess taxpayers. Staff responded that they did not know, but Representative Haigh answered that, yes, fire districts are limited in the amount of their assessments. Representative Linville then asked if the process for developing the pre-suppression budget looks at the benefit of prevention. Staff responded that policymakers should look at suppression as a total package, a land management issue, and they would be better able to look at the trade-offs between pre-suppression and suppression budgets.

Senator Benson asked whether pre-suppression costs include both infrastructure and suppression costs. Staff responded that they did. Senator Benson then commented about the affect of pre-suppression funding on suppression expenditures. He recalled that ten years ago, the Legislature funded DNR to purchase tender trucks, which were projected to save suppression costs. He wondered if DNR did buy those trucks and if they had any effect. Staff responded that DNR's data systems do not support answering questions about how pre-suppression funding impacts suppression expenditures.

Representative Jarrett commended staff for their work. He asked whether staff looked to see how DNR is using activity accounts in this area. Staff responded that they did not. They noted that DNR does collect expenditure data, and it is available in a detailed form, though not in the definition of activity. Representative Jarrett commented that this seemed to speak to a problem of capacity planning. He noted that this would be interesting to look at in light of the recommendations. Staff responded that DNR has the basic information, which would probably give information on the resources available.

Representative Wallace asked 1) whether DNR's computer systems are capable of handling the changes recommended in the report and 2) if DNR was requesting the appropriate amount of funding from the federal government. Staff responded that DNR's ability to request funds from the federal government appropriately was a concern. Currently, it is possible to verify that the federal government paid DNR money, but it is not possible to assess whether this amount is appropriate. JLARC's recommendation will address this and will require a change in DNR's relationship with the federal government. For DNR's computer systems, some will be able to handle the recommended changes, while others probably would not, and there likely would be a fiscal impact to the recommendations.

Representative Hunter asked who does not have preseason agreements with DNR and why every vendor does not have a preseason agreement. Staff replied that vendors without preseason agreements are those who do not often contract with DNR. They are frequently people who operate equipment for a different purpose, such as logging or construction.

Representative Anderson appreciated the detail provided in the report. He noted that he was concerned by the comment that DNR had data available in boxes of records. He wanted to talk to staff further about this issue.

Representative Alexander thanked staff for a comprehensive report.

HIGHER EDUCATION CAPITAL FACILITIES STUDIES: EXPANDING THE COMPARABLE FRAMEWORK – PRELIMINARY REPORT

Karen Barrett of JLARC staff presented this preliminary report. This study offers findings from hands-on research into the value and cost for the state to assemble comparable information about campus infrastructure and the dimension of "time" as factors in ongoing preservation and renewal of buildings. It also offers findings from research JLARC conducted looking into techniques used to systematically describe and measure modernization. The study concludes with recommendations to the Legislature and the Office of Financial Management (OFM) about actions necessary to resolve policy questions pertaining to sustained use (or expansion) of the Comparable Framework beyond 2006.

Representative Wallace thanked staff for a very well-done report. She asked if there was a model that other states use to collect fees for building maintenance and modernization. Staff responded that Washington students currently do pay a building fee as a portion of their tuition.

Representative Hunter noted that he appreciates having data available for analysis; however, is it costly to collect this data, and if so, does the value exceed its cost? Staff responded that this is a consideration and one examined to prepare this report. JLARC quantifies the levels of effort required to go after systems data to support capital deliberations. Collectively these facilities represent \$11.5 billion in assets. In the scale of preservation efforts, the cost for collecting data is relatively small. Based on this study, staff would recommend a time component of some sort be considered. It extends the usefulness for having assembled building inventories for the state as is required from all capital agencies. Facility managers do appreciate the value this information offers but recorded building histories are generally not first-priority tasks for attention.

Representative Jarrett thanked staff for the inclusion of Governmental Accounting Standards Board (GASB) information in the report.

Representative Alexander noted that JLARC may have exceeded its scope in the original Comparable Framework report by creating a model, which actually moves into implementation. He thinks this report's recommendations, which suggest the Legislative Evaluation and Accountability Program Committee (LEAP), the Higher Education Coordinating Board (HECB), and OFM—or a combination of agencies—continue updating the data, are good.

GENERAL CONTRACTOR/CONSTRUCTION MANAGER PROCEDURES STUDY – PRELIMINARY REPORT

Jill Satran and Isabel Muñoz-Colón of the JLARC staff presented this preliminary report. Major public works projects have traditionally been carried out using the design/bid/build (DBB), or “lump sum”, method of contracting. Since the 1990s, the Legislature has also authorized a limited number of state and local entities to use General Contractors/Construction Manager (GC/CM) as a means of addressing issues of design, schedule, or project complexity. Under GC/CM, the contractor provides input during the design phase and acts as the general contractor during the construction phase. In this report, JLARC reviews past and current projects constructed using GC/CM contracting procedures. Project data are used to determine the feasibility of assessing the public benefits and costs of using this alternative method of public works contracting.

Representative Haigh noted that on page 5 of the report, there are seven contractors with 78 projects. She asked if information is available on similar-scale projects using the DBB method—is the state’s GC/CM process limiting other contractors from entering the market getting the lowest bid? Staff responded that some information is available, although there is no data to compare GC/CM with DBB, so it is not possible to determine if the two markets are the same. However, they did try to identify some critical patterns. For example, there are only a handful of firms that try repeatedly and fail to win at least one GC/CM contract. Most firms in this study only bid once and, if unsuccessful, do not bid again.

Senator Oke observed that if GC/CM seems to promote teamwork, whereas DBB seems to result in an adversarial relationship between the owner and contractor, than he would look favorably on any process that promotes teamwork in the process. Staff responded that there are DBB projects that resulted in a successful project without the difficulties attributed to DBB.

Representative Haigh announced that she is working hard to establish the Capital Project Review Board, which needs interested legislators, both Republicans and Democrats and Senators and Representatives.

Representative Alexander recognized the new director of the Department of General Administration (GA), Linda Villegas Bremer, thanked Jill and Isabel for their work, and wished Jill well in her new position at the Department of Transportation (DOT). Representative Hunter noted that GC/CM does not seem to be used very often at DOT. Staff responded that DOT uses Design-Build as their alternative contracting method. However, the Washington State Ferries have limited authority to use GC/CM and it is being used on the Anacortes Terminal.

OFM UPDATE: PROJECT WORK PLAN ADDRESSING JLARC RECOMMENDATION IN CAPITAL BUDGET PROCESSES PERFORMANCE AUDIT

Mike Roberts and Debbie Hoxit of OFM briefed the Committee on planned activities for the next eight months concerning state-level, capital decision support systems and strategies to implement JLARC’s recommendation in JLARC’s Capital Budget Processes Performance Audit. Mr. Roberts noted that the JLARC report focused on major projects, which is any project over \$5 million, but that the Capital Budget also has a robust grant program, as well as omnibus appropriations. Additionally, member request projects doubled in the past budget. There is very little in the way of process in these requests.

OFM has an internal team working on responding to JLARC’s recommendations, consisting of Mr. Roberts and the capital staff, with Ms. Hoxit serving as the project director. An advisory group with representation from senior legislative staff, OFM, GA, community colleges, and the HECB has been formed. OFM has developed a workplan, a draft charter, a detailed scope and objectives, and has defined roles and responsibilities of the advisory group. OFM’s team is currently reviewing all capital-related studies and has maintained an ongoing relationship with JLARC staff. The current timeline is to have a detailed plan in place by October, which will respond to all of the JLARC recommendations, except performance measures, for capital projects statewide. This exception is due to overlap with assignments the Legislature gave in HB 1830 to the Capital Projects Review Board. OFM would need to see what elements this board establishes. The goal for this summer is to gain necessary management support from both the Legislature and Executive Office to make changes to statutes, systems, and tools.

Representative Alexander asked if the group had assessed the cost of collecting data compared to the benefits gained from having that data. Mr. Roberts said that this is a topic of conversation between OFM and JLARC during the capital studies, and that he believes that the advisory group will collectively need to have this same conversation; it is not that OFM does not want

the data, more of a question of the levels of management evaluation appropriate to the budget process. Representative Alexander thanked OFM and said that he looks forward to the charter.

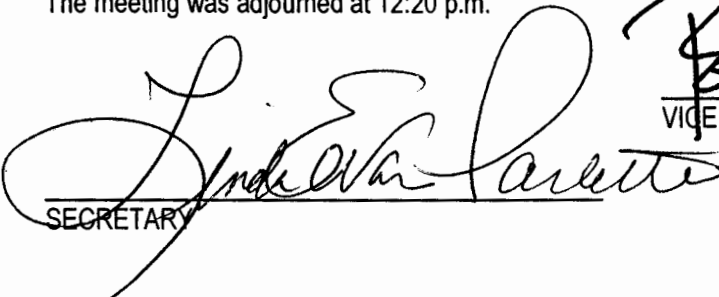
ATTENDANCE

JLARC Members Present: Senators Brad Benson, Bob Oke, and Linda Evans Parlette; Representatives Gary Alexander, Glenn Anderson, Kathy Haigh, Janéa Holmquist, Ross Hunter, Fred Jarrett, Kelli Linville, and Deb Wallace.

JLARC Staff Present: Ann Daley, Interim Legislative Auditor; staff members Karen Barrett, Linda Byers, Deane Campbell, Melania Elias, Lisa Jeremiah, Suzanne Kelly, Isabel Muñoz-Colón, Curt Rogers, Jill Satran, Eric Thomas, and John Woolley.

ADJOURNMENT

The meeting was adjourned at 12:20 p.m.


VICE CHAIR


SECRETARY